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Report of the Secretary-General on a preliminary operational plan for a possible United Nations congress on public international law

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I. INTRODUCTION

1. On 25 November 1992, the General Assembly adopted resolution 47/32 entitled "United Nations Decade of International Law", to which was annexed, as an integral part thereof, the "Programme for the activities for the second term (1993-1994) of the United Nations Decade of International Law". Section V, paragraph 3, of the Programme reads as follows:

> "The Secretariat, on the basis of informal consultations with the members of the Sixth Committee, should draw up a preliminary operational plan for a possible United Nations congress on public international law, based on the proposal that the congress should be held in 1994 or 1995, and within existing resources and assisted by voluntary contributions, and submit it to the Sixth Committee for consideration by general agreement at the forty-eighth session of the General Assembly."

Furthermore, in paragraph 7 of the resolution, the General Assembly requested the Secretary-General to submit to the Assembly at its forty-eighth session a report containing the above-mentioned plan.

2. Pursuant to these requests, informal consultations were arranged on 14 and 27 May 1993 with members of the Sixth Committee on a draft preliminary operation plan for a possible United Nations congress on public international law.

3. The present preliminary operational plan takes into consideration the relevant provisions of General Assembly resolution 47/32 and views expressed during the said informal consultations. It is designed to assist the Sixth Committee in the consideration of this question at the forty-eighth session of the General Assembly.

II. PURPOSE OF THE CONGRESS

4. While the precise theme of the congress would have to be decided by the General Assembly, upon the recommendation of the Sixth Committee, the fact that the congress would take place within the framework of the United Nations Decade of International Law indicates that its purpose would be the promotion of the role of international law in international relations. The congress should be organized in such a way as to ensure that all major legal systems, all regions and all segments of the international legal profession would have an opportunity to be heard and to be represented.

5. In making its decision on the theme of the congress, the General Assembly may wish to consider that the congress might address both theory and practice of international law, and take into account the fact that the teaching and dissemination of international law is of great importance, in particular to States that have recently joined the international community.

III. TIMING OF THE CONGRESS

6. The congress should be convened at United Nations Headquarters, in New York, not earlier than 1995, in order to allow for sufficient time for its preparation. The General Assembly, upon the recommendation of the Sixth Committee, would have to take a decision as to the timing and the duration of the congress. The following possibilities could be envisaged as to the precise timing of the congress:

(a) The congress could be held in conjunction with a session of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization;

(b) The congress could be held in conjunction with a regular session of the General Assembly (Sixth Committee);

(c) The congress could be held at a time independent from any other planned meeting.

7. If the congress were to be held in conjunction with a session of the Special Committee on the Charter, as suggested by some delegations during the informal consultations, or in conjunction with a regular session of the General Assembly (Sixth Committee), as also suggested by other delegations, the following considerations, inter alia, would need to be taken into account in deciding between these two options: the extent of the presence in New York for the purpose of the session in question of members of delegations who would also attend the congress; the extent of financial assistance provided for delegations from the least developed countries with respect to participation in that session; the other meetings and activities taking place at that time; and the availability of large conference rooms, in particular the General Assembly Hall, and other conference services.*

8. The duration of the congress should not exceed five working days; it should not be less than three working days since the subjects to be covered are too vast to be addressed meaningfully in a shorter period of time, and since a shorter period of time would not justify the travel by many participants to the Congress to New York.

IV. ORGANIZATION OF WORK

9. The General Assembly, on the recommendation of the Sixth Committee, would have to take a decision on the specific topics to be discussed at the congress.

10. Each day of the congress could be divided into either two plenary meetings, i.e., one in the morning (10 a.m.-1 p.m.) and one in the afternoon (3 p.m.-6 p.m.); or a plenary meeting in the morning and one or more consecutive, not simultaneous, working group meetings on specific issues in the

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* The use of the General Assembly Hall for the purpose of the congress during a session of the Assembly would require special arrangements.

afternoon. All the necessary services and facilities (conference rooms, including the General Assembly Hall, simultaneous interpretation from and into all official languages of the United Nations, recording of the proceedings, distribution of documents, etc.) would have to be available.

11. It is suggested that, during each plenary meeting, a number of selected speakers would lead the discussion on specific topics. This could be followed by interventions from the floor (comments, questions and answers).

12. In view of the importance of the congress, an opening and closing statement may be made by a high-ranking individual, who is well-known in the field of public international law.

13. The congress would also benefit from a properly organized coverage of its work by the mass-media, including television, newspapers and magazines. Publishing the materials of the congress for distribution to various educational, research, governmental, judicial and public institutions throughout the world could also be considered, but would depend on the availability of resources.

V. ISSUES REGARDING PARTICIPATION IN THE CONGRESS

A. Participants

14. Participation in the congress would be broadly based and it should be open to all those interested in international law, both in theory and in practice, and particularly to the following:

(1) Members of the International Court of Justice;

(2) Members of the International Law Commission;

(3) Diplomats/delegates to the Sixth Committee;

(4) Officials from the legal offices of the ministries of foreign affairs and of the ministries of justice;

(5) National judges;

(6) Members of parliament;

(7) Professors of public international law and of related subjects (for example, political science, international relations and international organizations);

(8) Officials from legal offices of international organizations, including regional organizations;

(9) Representatives of non-governmental organizations active in the area of public international law and which have consultative status with the Economic and Social Council;

(10) Representatives of the media dealing with issues of international law on a regular basis.*

B. Notice to participants

15. The best way of reaching the participants under categories (3) to (7) would be by a note verbale to the Permanent Representatives, requesting them to inform their Governments about the congress. The Governments would, in turn, be requested to publicize and transmit the information to all prominent individuals under categories (3) to (7). A background note containing information about the congress and promoting its purposes and relevant activities could be prepared by the Secretariat and attached to the note verbale. The Governments could also be requested to publicize the background note, without cost to the Secretariat. Letters of invitation could be sent from the Secretariat to the members of the International Court of Justice and the International Law Commission. Similar letters would be sent to the other categories of participants (categories (8) to (10) in para. 14 above). An appropriate procedure would need to be devised to widely publicize the congress, such as notices in leading journals of public international law.

C. Decisions regarding admission

16. It is important to avoid an unbalanced regional representation of the participants in the congress. It would therefore seem helpful to require advance registration for the congress, which, except for members of the International Court of Justice and the International Law Commission, should be in the form of a request for admission. If provisional limits were to be put on the number of participants from a particular region or country, they would have to be readjusted in light of the results of the registration process. The "first come first served" principle should, in this context, be taken into account. In the case of countries with a very large number of interested individuals, any other criterion would not be workable. It should be borne in mind that the congress is not intended only for persons who have achieved international recognition. The final decision as to admission could rest with either of the following:

(a) the Sixth Committee, possibly through the regional groups;

(b) the Secretariat.

The total number of participants would of course depend on the capacity of the conference rooms available at the time of the congress.

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* A decision could also be taken to allow a limited number of observers from the general public, which might be interested in attending the meetings of the congress.

D. Selection of speakers

17. The selection of speakers for the congress should also meet the requirements of balanced regional representation and of expertise of the speakers in each of the particular topics of discussion. For practical considerations, once the General Assembly has decided on the topics to be discussed at the congress, the selection of the speakers should be made by the Secretariat, in consultation with the members of the Sixth Committee.

VI. FINANCING OF THE CONGRESS

18. As indicated above, General Assembly resolution 47/32 provides that the congress should be held within existing resources and be assisted by voluntary contributions. Since it would still involve programme budget implications, however, and involve commitment of United Nations resources, it would be necessary for the Secretary-General to submit a statement of programme budget implications of any draft resolution on the holding of a congress. In view of the financial restrictions placed on the congress, preparations would be dependent to some extent on the availability of extrabudgetary resources.

19. It is anticipated that staff resources for substantive preparation of the congress and for substantive servicing of its meeting could be accommodated from within the staff resources of the Office of Legal Affairs. The other major costs arising would relate to conference servicing, public information coverage and travel and subsistence of at least some of the participants.

A. Conference servicing and public information coverage

20. On a theoretical full cost basis, all three options for the timing of the congress described in paragraph 6 above would have the same financial implications for conference services. However, under options (a) and (b), and provided the length of the session of the Special Committee on the Charter or of the Sixth Committee was reduced accordingly, resources from within the entitlement of either one of those organs could be used to service the congress, in which case no actual additional costs would be involved for meeting services. As to option (c), the pattern of the biennial schedule of meetings is such that from mid-January to the end of July all permanent resources are fully utilized. Unless the congress were to be held either in the first two weeks of January or the first two weeks of August, financial costs for the recruitment of free-lance conference servicing still would be involved.

21. A substantial component of conference servicing costs, however, consists of the processing, translation, and printing of documentation. If the documentation for the congress is kept to a minimum (for example, limited to the congress programme, a list of participants and a compilation of summaries of main statements), it is anticipated that the costs of conference servicing can be absorbed within existing resources.

22. As regards public information coverage of the congress, it is not anticipated that requirements could be absorbed within existing resources. Depending on the nature and degree of coverage, and the regular demands on services of the Department of Public Information, additional resources would be required.

B. Travel and subsistence

23. The participation of designated speakers would be one of the prerequisites of the congress. In order to ensure that financial considerations do not constitute an obstacle to their participation in the congress, it is crucial that travel costs and subsistence for the period of their participation in the Congress be covered.

24. The travel and subsistence cost of speakers could not be borne by the United Nations within existing resources. They would thus have to be borne through financing from external sources, such as voluntary contributions, or directly by the Government of each speaker. Participation may thus depend on the availability of extrabudgetary resources or contributions in kind. It is hoped that the travel and subsistence costs of speakers will be borne by their respective Governments.

C. Possible external sources of financing

25. In its decision to hold the congress, the General Assembly may wish to include an invitation to Governments and non-governmental institutions, including non-governmental organizations, to make voluntary financial contributions towards the financing of the congress, or to cover particular costs, such as the travel and subsistence costs of speakers (see paras. 21-23 above), and to authorize the Secretariat to solicit contributions from non-governmental sources. In accordance with the Financial Regulations and Rules of the United Nations, a trust fund would have to be established by the Secretary-General for receiving financial contributions. It will not be possible to estimate the extent of financing that might be available from voluntary contributions until approaches are made to possible donors.

26. With respect to non-governmental sources, and with the authorization of the General Assembly, voluntary contributions could be solicited, for example, from individuals by means of general solicitations (for example, in relevant journals or publications). In addition, private-sector corporations and enterprises (for example, legal publishers), as well as major foundations and philanthropic institutions, could be approached to make contributions, or to undertake to cover particular types of costs. Contributions could also be solicited from professional and academic associations, and non-governmental organizations concerned with international law.

27. It should be underscored that, as stated in paragraph 18 above, unless such financial issues are settled, no activity relating to the convening of the congress can be set in motion.